

REMARKS

Entry of this Amendment and reconsideration are respectfully requested in view of the amendments made to the claims and for the remarks made herein.

Claims 1-20 are pending and stand rejected. Claims 1, 2, 9, 14 and 15 have been amended.

The drawings are objected to as allegedly including multiple figure 4s.

Applicant thanks the Examiner for his observation. However, applicant respectfully does not understand the objection as a search of the USPTO Public Pair website with regard to the instant invention shows Figures 1-5 have been entered into the file. The figures illustrated on the web site are marked Figures 1-5 without any duplicates.

Applicant respectfully requests that copies of the multiple figure 4s be provided for a better understanding of objection. Until such time that copies of the multiple figure 4s are provided, applicant respectfully requests that the objection be held in abeyance.

Claims 2, 15 and 16 are objected-to for containing informalities. The Office Action states that the claims on which these claims depend disclose a system that selects programs, while these claims disclose the step of selecting channels.

Applicant thanks the Examiner for his observation and has amended claim 2 to recite the method further comprising the step of selecting at least one channel interactively in response to a said user's input.

With regard to claims 15 and 16, these claims recite further means for performing the recited subject matter steps and describe additional aspects of the invention. Hence, the subject matter described in claim 15 and 16 are believed in proper form, and there is no reason for amending these claims.

For the amendment made to claim 2, applicant submits that the reason for the objection to claim 2 has been overcome and respectfully requests that the rejection be withdrawn. With regard to claims 15 and 16, applicant believes that these claims are in proper form and the objection is not proper.

Claims 1, 2, 4-8, 12, 14-16, and 18-20 stand rejected under 35 USC 103(a) as being unpatentable over Berenson in view of Finseth.

Applicant respectfully disagrees with and explicitly traverses the reason for rejecting the claims. However, in the interest of advancing the prosecution of this matter, the invention recited in the independent claims has been amended to more clearly state the invention. More specifically, the claims have been amended to recite "selecting at least one of a plurality of subscription plans" and selecting at least one program from "one of the selected at least one subscription plans." No new matter has been added.

Support for the amendment may be found at least on page 6, lines 7-9, which state "...the receiver 10 provides payment options for viewers to subscribe for a selected number of programs/channels, so that they do not have to pay for the entire package when they desire only some of the program/channels."

Berenson discloses a method and system for creating program grids displaying programs with time as one axis and program preference along the other. Program preference information is used to create the grid. Program preference information is gathered from client devices which may be located in set-top boxes or on personal computers. (See Abstract). Berenson illustrates in Figure 7 "... an evening's worth of recommendations for each viewing time slot [wherein] all possible programs in a period are ranked according to the current preference; the programs are then placed sequentially into the highest uninhabited slot for its time period on the grid." (see page 5-6, paragraph [0063]).

Hence, Berenson discloses a system wherein programs are presented in accordance with the user profile. However, Berenson fails to disclose recommending subscription plans based on the user profile as is recited in the claims.

Finseth discloses a method for sharing viewer preference information between a first user and a second user. The method comprises the steps of storing the first user viewer preference information and transmitting at least a portion of the first viewer preference information to a second user for storage. (see Abstract). Finseth further discloses, which is referred-to in the instant Office Action (see page 3, lines 21-22), "the

server stores all of the incoming preference information and preferably organizes ... program attributes based on frequency of user selection." (see col. 14, lines 13-16).

A claimed invention is prima facie obvious when three basic criteria are met. First, there must be some suggestion or motivation, either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings therein. Second, there must be a reasonable expectation of success. And, third, the prior art reference or combined references must teach or suggest all the claim limitations.

In this case, if the teachings of Berenson and Finseth were combined, as suggested, the combined device would fail to render obvious the invention recited in claim 1, for example. More specifically, the combined device would include a user profile that is updated by the frequency of the programs viewed. However, the combined device would not provide any teaching to recommend subscription plans or selecting a program based on one of the select at least one subscription plans, as is recited in the claim 1.

With reference to claim 1 neither Berenson nor Finseth, individually or in combination, teach or suggest all the elements recited therein. Hence, even if there were some motivation to combine the teachings of the cited reference, the combined device fails to teach all the features recited in independent claim 1.

The invention recited in claim 1 is not rendered obvious by the teachings of the cited references. For at least this reason, applicant submits that the rejection of the claims has been overcome and respectfully requests withdrawal of the rejection and allowance of the claim.

With regard to the remaining independent claim 14, this claim recites subject matter similar to that recited in claim 1 and was rejected citing the same references used in rejecting claim 1. Thus, applicant's remarks made in response to the rejection of claim 1 are also applicable in response to the rejection of the remaining independent claims.

In view of the amendments made to the claims and for the remarks made with regard to the rejection of claim 1, which are reasserted, as if in full, in response to the

rejection of the remaining independent claim 14, applicant submits that the reason for the rejection of this claim can no longer be sustained.

Applicant respectfully requests withdrawal of the rejection and allowance of the claim.

The remaining claims are each dependent from the independent claim discussed above and are therefore patentable based on their dependency from an allowable base claim. For at least this reason, applicant respectfully requests withdrawal of the rejection and allowance of the remaining dependent claims.

Claims 9, 11 and 13 stand rejected under 35 USC 102(e) as being anticipated by Berenson.

Applicant respectfully disagrees with and explicitly traverses the reason for rejecting the claims. However, in the interest of advancing the prosecution of this matter, independent claim 9 has been amended to more clearly state "selecting at least one matched program, associated with a selected subscription, for viewing at a particular time."

As argued above Berenson is silent with regard to selecting a program associated with a selected subscription.

It is well recognized that to constitute a rejection pursuant to 35 USC §102, i.e., anticipation, all material elements recited in a claim must be found in one unit of prior art.

Berenson cannot be said to anticipate the invention recited in claim 9 as Berenson fails to disclose each and every element recited.

At least for this reason, applicant submits that the rejection of claim 9 has been overcome and can no longer be sustained. Applicant respectfully requests withdrawal of the rejection and allowance of the claim.

With regard the remaining claims, these claims ultimately depend from independent claim 8, which has been shown to contain subject matter not disclosed by, and, hence, allowable over, the reference cited. Accordingly, these claims are also allowable by virtue of their dependency from an allowable base claim.

Accordingly, applicant respectfully requests withdrawal of the rejection and allowance of the claims.

Claims 3, 10 and 17 stand rejected under 35 USC 103(a) as being unpatentable over Berenson in view of Finseth and further in view of Ottesen.

Applicant respectfully disagrees with, and explicitly traverses, the reason for rejecting the claims.

Claims 3, 10 and 17 depend from independent claim 1, 9 and 14, respectively, which have been shown to contain subject matter not disclosed by Berenson and Finseth, individually or in combination. The invention recited in claims 3, 10, and 17 is not rendered obvious by the teachings of Berenson, Finseth,, and Ottesen as the combined device fails to recite all the elements claimed in the independent claims and consequently in the aforementioned dependent claims.


For at least this reason, applicant respectfully requests withdrawal of the rejection and allowance of the claim.

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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